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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,761	12/05/2003	Charles A. Hamilton	END920030144US1	3210
7590	07/26/2006		EXAMINER	
John R. Pivnichny IBM Corporation / IP Law Dept. IQ0A Bldg. 040-3 1701 North Street Endicott, NY 13760			WILLIAMS JR, RONALD E	
			ART UNIT	PAPER NUMBER
			2121	

DATE MAILED: 07/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/729,761	HAMILTON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ronald E. Williams	2121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 April 2006.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-18 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 27 April 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

1. This Office Action is responsive to amended application filed on April 27, 2006.
2. Claims 1-18 have been examined.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Examiner states that Applicant has cited no specific results that would define a useful, concrete and tangible result.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Sketch (USPN: 2002/0077884).

**Regarding Claim 1, Sketch discloses:**

A process for defining a learning solution, comprising the steps of: providing a learning solution context (*see Abstract, lines 3-8. “providing a variety of learning solutions for eliminating gaps between the assessed level of functional competency and a level of functional competency required for the employment function.”*); and aligning a plurality of solution components to said solution context. (*see Figures 1-5. Figures 1-5 show the technology, processes, and methods which are disclosed as the solution components in applicant’s specification.*)

**Regarding Claim 3, Sketch discloses:**

The process of claim 1, wherein said zones represent types of interaction. (*see pg 3, para 0032-0048. In these paragraphs Sketch discloses many different types learning solution or types of training which include various methods of interaction.*)

**Regarding Claim 4, Sketch discloses:**

The process of claim 1, wherein said solution components comprise purpose/outcomes, measurement, technology/infrastructure, resources, and process. (*see Figures 1-5. Figures 1-5 show the technology, processes, and methods which are disclosed as the solution components in applicant’s specification.*)

**Regarding Claim 5, Sketch discloses:**

The process of claim 4, wherein said purpose is a business purpose comprising increasing sales, or decreasing errors (*see Figure 3. “Sketch discloses being able to think cross-functionally about ideas that impact the business” Examiner notes that increasing sales or decreasing errors are two of the most important aspects of a business therefore thinking cross-functionally about ideas that impact the business would including thinking about ideas that would increase sales or decrease errors as claimed by applicant.*)

**Regarding Claim 6, Sketch discloses:**

The process of claim 4, wherein said outcomes comprises employee compliance with regulations, certification in a profession, or performing new procedures. (*see pg 1, para 0009. “eliminating gaps between the employee’s current level of functional competency and the level of functional competency required for the employee’s employment function.” & see pg 2, para 0012*)

**Regarding Claim 7, Sketch discloses:**

The process of claim 4, wherein said measurement includes calculating a return on investment for learner performance. (*see Figure 5, pg 1, para 0010, lines 1-3 and pg 4, para 0052-0053. Examiner notes evaluation method cited by Sketch in paragraphs 0052-0053 measurement which includes calculating a return on investment for learner performance or equivalent method of measurement as*

***disclosed by applicant's specification.)***

**Regarding Claim 8, Sketch discloses:**

The process of claim 4, wherein said technology/infrastructure includes network, hardware, and software, for access and delivery of learning experiences. (***see Figure 4 and pg 4, para 0057-0063***)

**Regarding Claim 9, Sketch discloses:**

The process of claim 4, wherein said resources comprises processes for adapting source material from content and curriculum publishers, scheduling space and equipment, assigning trainers, locating mentors, or licensing software. (***see pg 4, para 0056, lines 1-9. "identifying the needs for new learning solutions and linking training resources, products, services, and consulting expertise to the needs of employees and third party learning solution customers."***)

**Regarding Claim 10, Sketch discloses:**

The process of claim 4, wherein said process comprises new governance committees, incentives to encourage new behaviors, or responsibilities for updates. (***see pg 5, para 0064, lines 25-38 and para 0065***)

**Regarding Claim 11, Sketch discloses:**

A system for defining a learning solution, comprising: a computer processor; (***see***

**Figure 4)** program means on said processor for providing a learning solution context; (**see Abstract, lines 3-8. “providing a variety of learning solutions for eliminating gaps between the assessed level of functional competency and a level of functional competency required for the employment function.”**) and program means on said processor for aligning a plurality of solution components to said solution context. (**see Figures 1-5. Figures 1-5 show the technology, processes, and methods which are disclosed as the solution components in applicant’s specification.**)

**Regarding Claim 13, Sketch discloses:**

The system of claim 11, wherein said zones represent types of interaction. (**see pg 3, para 0032-0048. In these paragraphs Sketch discloses many different types learning solution or types of training which include various methods of interaction.**)

**Regarding Claim 14, Sketch discloses:**

The system of claim 11, wherein said solution components comprise purpose/outcomes, measurement, technology/infrastructure, resources, and process. (**see Figures 1-5. Figures 1-5 show the technology, processes, and methods which are disclosed as the solution components in applicant’s specification.**)

**Regarding Claim 15, Sketch discloses:**

A computer program product for instructing a processor to define a learning solution,

said computer program product comprising:

a computer readable medium; (*see Figure 4*)

first program instruction means for providing a learning solution context; (*see Abstract*,

*lines 3-8. "providing a variety of learning solutions for eliminating gaps between*

*the assessed level of functional competency and a level of functional competency*

*required for the employment function."*)

second program instruction means for aligning a plurality of solution components to

said solution context; (*see Figures 1-5. Figures 1-5 show the technology*,

*processes, and methods which are disclosed as the solution components in*

*applicant's specification.)* and wherein both said program instruction means are

recorded on said medium.

**Regarding Claim 17, Sketch discloses:**

The computer program product of claim 15, wherein said zones represent types of

interaction. (*see pg 3, para 0032-0048. In these paragraphs Sketch discloses many*

*different types learning solution or types of training which include various*

*methods of interaction.)*

**Regarding Claim 18, Sketch discloses:**

The computer program product of claim 15, wherein said solution components comprise

purpose/outcomes, measurements, technology/infrastructure, resources, and process.

**(see Figures 1-5. Figures 1-5 show the technology, processes, and methods which are disclosed as the solution components in applicant's specification.)**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 11, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sketch (USPN: 2002/0077884) in view of Gray (USPN: 2006/0036629).

Sketch discloses an invention similar to that of the applicant's invention, however fails to disclose a circular diagram having zones and an inner circular area. Gray teaches a system and process for identifying objects and/or points nearby a given object or point that has a circular diagram having zones and an inner circular area. (see **Figure 4**)

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It would be obvious to one of ordinary skill in the arts at the time of the invention to modify the invention of Sketch to include the circular diagram having zones and an inner circular area taught by Gray to quickly search for all objects within a certain radius of point (ra, dec) by looking in certain zones, and then only in certain parts of each zone.

Claims 1, 11, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sketch (**USPN: 2002/0077884**) in view of Gray (**USPN: 2006/0036629**) in further view of Gregory Lloyd (**2001, Gain Credit with CLEP (College Level Examination Program)**) hereinafter referred to as Lloyd.

Lloyd teaches defining a ratio of informal learning to formal learning. (**see paragraphs 2-4. Lloyd teaches a CLEP program that allow people to use their prior life experiences and education to take a CLEP exam and receive college credit in addition to taking college level courses to receive a degree from a college/university. The Examiner notes that the CLEP exam would be the informal training as claimed by applicant whereas the actual college level course taken would be the formal training as claimed by applicant. In addition, the Examiner notes that the person's GPA would be the defining of informal learning to formal learning as claimed by applicant)**

It would be obvious to one of ordinary skill in the arts at the time of the invention to modify the inventions of Gray and Sketch to include the method of defining a ratio of

formal to informal learning taught by Lloyd to define the amount of informal learning and formal learning used in the learning process.

### ***Response to Arguments***

Examiner confirms that the Melody Ann Williams article has been considered.

Applicant states that Sketch fails to disclose a circular diagram having an inner circular area defining a ratio of formal to informal learning. The Examiner states that Gray teaches a circular diagram having an inner circular area in Figure 4. In addition, the Examiner states that Lloyd teaches a CLEP program wherein a ratio of formal to informal learning is defined; therefore independent claims 1, 11 and 16 stand rejected.

Applicant states that Sketch fails to disclose a business purpose comprising either increasing sales or decreasing errors. Examiner disagrees and states that Sketch discloses thinking cross-functionally about ideas that would impact the business. The Examiner further states that the employee would want to think cross-functionally about ideas that would impact the business in ways that would increase sales as well as decreasing errors, thusly claim 5 stands rejected.

Applicant states that Sketch fails to discloses measuring a learning performance as well as calculating a return on investment. Examiner states that in paragraphs 0052 and 0053 of Sketch, there is an evaluation to survey the extent to which the acquired skills have been applied on the job and the extent to which the anticipated business results have been achieved which is the calculating a return on investment as claimed

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by applicant or is an equivalent method of measurement as defined in applicant's specification; therefore, claim 7 stands rejected.

Examiner has taken note of Applicant's request, however after further examination the Examiner states that there is no patentable subject matter in Applicant's claimed subject matter that would deem a phone call necessary to further advance prosecution.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald E. Williams whose telephone number is 571 272 2590. The examiner can normally be reached on MWF 7-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on 571 272 3687. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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